

Water Quality Standards (WQS) Workgroup Meeting Summary

August 15, 2007, 2:00 – 4:45 p.m.

288 North 1460 West, Salt Lake City, Cannon Health Building, Room 101

Attendance

WQS Workgroup Members and Alternates in Attendance

Dave Moon, EPA Region 8
Carmen Bailey, Division of Wildlife Resources
Roy Gunnell, Department of Agriculture and Food
Leland Myers, Central Davis Sewer District
Florence Reynolds, Salt Lake City Public Utilities
Gerard Yates, Central Utah Water Conservancy District
Lisa Kirschner, Parsons Behle & Latimer (representing Utah Mining Association)
Brad Rasmussen, Aqua Engineering (representing Utah Food Industries Association)
Kerry Ruebelmann, Kleinfelder Consultant (representing Utah Manufacturers Association)
Merritt Frey, Utah Rivers Council
Paul Dremann, Trout Unlimited
Howard Thomas, Utah Farm Bureau Federation
William Moellmer, Division of Water Quality
Ying-Ying Macauley, Division of Water Quality

Others Present:

Harry Judd, Division of Water Quality
Tom Toole, Division of Water Quality
Dave Wham, Division of Water Quality
Carl Adams, Division of Water Quality
Jeff Ostermiller, Division of Water Quality
Reed Oberndorfer, Central Utah Water Conservancy District
Mark Quilter, Department of Agriculture and Food
Don Summit, JBS Swift Beef
Nicholas Von Stuckelberg, Stantec Consultants
Karen Nichols, Stantec Consultants

Walter Baker welcomed the WQS Workgroup and the meeting participants. Walt expressed his appreciation for the time and efforts by the people who volunteer to help the Division of Water Quality (DWQ).

Bill Moellmer welcomed the group and had members of the workgroup and the audience introduce themselves.

EPA's Perspective in State WQS Development

Dave Moon of the EPA Region 8 discussed EPA's roles in setting WQS and a preliminary list of Utah WQS issues from EPA's perspective. First, Dave outlined that the EPA's roles in states or authorized tribal WQS actions are:

- Participate actively in pre-rulemaking and rulemaking process
- Raise Issues
- Identify options
- Explain requirements and flexibility
- Provide recommendations
- Act on adopted and submitted revisions (CWA § 303(c))

Dave stated that the Clean Water Act (CWA) assigns to the States and authorized Tribes the primary responsibility and lead role in adopting water quality standards for surface waters. Dave reported that Utah's water quality standards are fully approved.

Second, Dave went through a preliminary list of Utah WQS issues for discussion to provide an initial EPA perspective on topics that warrant review by the work group. Dave indicated that EPA is very interested in listening to the perspective of all workgroup members with regard to the issues that warrant review and discussion.

Numeric Criteria

1. Should chronic total ammonia criteria be added to Class 3C and 3D to ensure protection of existing and attainable aquatic life (do toxicity data demonstrate the need for a chronic criterion even in the absence of game fish)?
2. In situations where natural/irreversible concentrations (e.g., for temperature or TDS) exceed the existing criteria, is there a need to clarify the method that will be used to derive criteria reflecting the highest attainable level of water quality, including methods to maintain the spatial and temporal variability in the ambient levels?
3. Should the Class 1C cadmium criterion be changed from 0.010 mg/L to 0.005 mg/L, to be consistent with the SDWA MCL?
4. Should a nitrite criterion of 1.0 mg/L be added to Class 1C?
5. Is there a need to clarify the allowable frequency of exceedance provisions of any numeric criteria (e.g., pH, dissolved oxygen)?

Recreation Standards

1. With the changes to the bacteria criteria for 2A and 2B (2A now is more protective based on a slightly lower illness rate), are there 2B waters that should be upgraded to 2A to better reflect the frequency of primary contact recreation use?
2. Should the E. coli footnote be clarified so that it more clearly applies only if the geometric mean attributable to anthropogenic sources is less than the geometric mean criterion?
3. Single Sample Criteria – Because Utah's single sample criteria are not-to-be-exceeded (maxima), they are more stringent than EPA's criteria with the same magnitude, because the EPA criteria are 95th percentile values. Having said that, should the Utah single sample criteria be revised consistent with EPA's

recommendations for Designated Beach (75th percentile), Moderate Full Body Contact (82nd percentile), or Lightly Used Full Body Contact (90th percentile) waters?

Antidegradation

1. Should the antidegradation implementation method for the Great Salt Lake be clarified regarding the review procedure where there are proposals to degrade the water quality of the Great Salt Lake?
2. Should the antidegradation implementation method be clarified with respect to parameters for which there are no numeric criteria (e.g., nutrients)?
3. Should the off-ramps from antidegradation review for waters that are not High Quality-Category 1 or High Quality-Category 2 be streamlined and/or narrowed? For example: Off ramp #10 – “Minor WQ Impacts” – are revisions needed to clarify intent?

Beneficial Use Classifications

1. Class 3C – Is there a need to review the waters with this use classification to determine whether Class 3B is more appropriate? Should this classification be reserved for intermittent/low flow segments with a limited fish community?
2. Class 3D – Should this use classification be assigned to most/all waters to reflect that most/all waters support water oriented wildlife?

Narrative Standards

1. Should the narrative standards be expanded to include narrative biological standards?

Harry Judd commented that he would like this Workgroup to complete its work so that R317-2 rule making can occur in January or February 2008.

Overview of Previously Proposed Changes to R317-2

Ying-Ying Macauley presented the proposed changes and the associated rationales and supporting information provided by DWQ’s TMDL Section. These proposed changes were previously presented to the Water Quality Board in October of 2006. In February of 2007, DWQ decided not to proceed with rule-making of these changes, and to re-start the triennial review process by first convening a WQS Workgroup to solicit input from the stakeholders. Ying-Ying asked that workgroup members review these proposed changes, identify a list of “hot topics” that they want to discuss in-depth in future meetings, and e-mail the list to her. She would compile the “hot topics list” prior to the next meeting.

Lisa Kirschner asked what would constitute “consensus” for the workgroup during the process. Leland Myers mentioned that the Great Salt Lake (GSL) Steering Committee has a ground rule in place to define majority. Harry Judd suggested expressing consensus with a majority opinion/recommendation with a minority opinion in case a unanimous consensus couldn’t be reached. Ying-Ying Macauley will research the procedure from the GSL Steering Committee and bring that to the next meeting. ???The Workgroup generally agreed that the process for identifying water quality standards “issues” and follow-up, if any, by DWQ staff warrants further definition.

Antidegradation Review (ADR) Policy Presentation and Discussion

Bill Moellmer gave a PowerPoint presentation on antidegradation review regulations and issues. The current antidegradation review policy (R317-2-3) includes Level I and Level II antidegradation review procedures and policies. Bill demonstrated the Excel spreadsheet that he uses for Level I review and for determining whether Level II review is needed. Bill asked the workgroup to examine and suggest improvements.

One focus presented in Bill's presentation was "pollution creep" and how to manage it. An example is that from permit renewal to renewal, pollution levels may increase up to 20% without triggering a Level II Review.

Another point Bill brought up was whether the current antidegradation rule offered too many "off ramps." The current rule (R317-2-3.4.b) allows 11 conditions (so-called "off ramps") that exclude a permit from Level II review. Dave Moon pointed out that several of the "off-ramps" (e.g., off ramp #4, #8, and #9) are very similar. Merrit Frey expressed that the length of the off ramp list is not the issue, and that how the antidegradation rule is applied is the real issue.

Mark Quilter asked about how to protect the downstream users during the antidegradation review process. The workgroup discussed about evaluating antidegradation on a basin wide basis (e.g., TMDL approach).

Florence Reynolds asked about the rationale of using 20% increase as a threshold in defining minor water quality impact [see R317-2-3-3.4.b.10 (a) and (b)]. Dave Moon stated that 20% was selected arbitrarily, but is not out of ordinary compared to other States' regulations with regard to proposed changes in load. Dave stated that load changes can be a simple and effective way to identify situations where degradation would be significant, but the most important test is how the proposal will affect water quality and the available assimilative capacity.

The workgroup also discussed:

1. Whether to establish a baseline as the background for Level I review.
2. Whether to set a cap over the baseline for triggering Level II review.
3. How and whether to define de minimis threshold for off ramps that would not trigger Level II review.
4. What criteria constitute socio-economical benefits and justify requiring additional treatment cost during Level II review.
5. What parameters should be used in antidegradation review.
6. Whether any changes need to be considered with respect to assessing the need for Level II review for bioaccumulative pollutants.

Brad Rasmussen commented that the Level II alternatives are redundant for new construction projects, since those alternatives are already considered in the planning process.

Merritt Frey offered to send a white paper regarding antidegradation issues to the workgroup members and to make a presentation regarding antidegradation to the committee during the next meeting.

Miscellaneous

Ying-Ying summarized the action items, including the presentation DWQ plans to make on how the Great Salt Lake Steering Committee defines consensus and what issues get recommended to the Division of Water Quality, and asked the workgroup members to prepare to share their ideas in the next meeting regarding:

- Identify “hot topics” among the previously proposed changes & e-mail the “hot topics” list to Ying-Ying before the next meeting.
- Revise the 11 off ramps for Level I review (see R317-2-3.4.b).
- Revise the requirements for Level II review (see R317-2-3.4.c).
- Manage “pollution creep.”

The workgroup decided to meet regularly on the 3rd Wednesday of each month unless a majority of members cannot meet then. Ying-Ying will e-mail the workgroup members to finalize the future meeting dates.